

Legal Aid

What is Legal Aid?

It is a plan designed to make sure that everyone can get the legal advice they need, whether they can afford to pay for it or not. Every resident of Ontario (and in some cases, non-residents) can apply for Legal Aid.

How does a person obtain Legal Aid?

The application should be made through either your lawyer or the area director of the Ontario Legal Aid Plan in your county. Your application will be referred to the Ontario Ministry of Community and Social Services which will investigate your income, expenses and assets.

If you qualify, you will be given a Legal Aid Certificate. The certificate covers either all or a portion of your legal expenses, depending on your needs. Once you receive the certificate, you can take it to any lawyer of your choice who participates in the Legal Aid Plan. Depending upon your financial resources, you may be asked to repay part or all of the aid you have received.

What is the relationship between a lawyer and a Legal Aid client?

It is exactly the same as that of clients who are paying the legal costs themselves. Neither the court nor the public will know that you are receiving Legal Aid. It is a private matter between you and your lawyer.

Law Reform

How can a person influence the law?

By making her views known to members of parliament, and to organizations set up to review the law.

In recent years, the governments of both Canada and Ontario have appointed law reform commissions to review and update federal and provincial laws.

If you wish to express your opinion about the revision of federal laws, you can make a submission to:

The Law Reform Commission of Canada
130 Albert Street
Ottawa, Ontario
K1A 0L6

Submissions about revisions to provincial laws should be addressed to:

The Ontario Law Reform Commission
18 King Street East, 16th Floor
Toronto, Ontario
M5C 1C5

If you are concerned about the Ontario government's policy toward women, and want to make your views known, you should write to:

The Ontario Status of Women Council
700 Bay Street, 3rd Floor
Toronto, Ontario
M5G 1Z6

If you want to reply to or comment on federal laws that affect women, write to:

The Advisory Council on the Status of Women
Box 1541, Station B
Ottawa, Ontario
K1P 5R5



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Women's
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The symbol chosen for the cover of the brochure is the mythological Goddess of Justice. The blindfold represents the impartiality of justice.



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Rights and Responsibilities

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The Law and The Courts

The laws of Ontario come from two sources – statute law and common law.

Statute laws can be passed by either the federal Parliament or the provincial Legislature. Acts passed by Parliament affect people in all provinces. Those passed by the Ontario Legislature apply to everyone living in this province.

Common law is based on the decisions of judges, both in Canada and Great Britain, going back to the 11th century. Once a judge has made a decision about a particular issue, this decision is “the law” until it is overruled or modified by another court or changed by statute law.

Many of our property and damage laws are common laws. Common law plays an important role in statute law, too. When judges have to interpret an Act in a particular case, very often they look at the common law to see how it has been interpreted previously.

What kind of court system do we have in Ontario?

The adversary system.

Essentially, what this means is that two sides oppose each other in legal proceedings. A judge, several judges, or a judge and jury decide which side is correct under law.

What different kinds of proceedings are there?

There are two – civil and criminal.

What happens in civil proceedings?

Usually civil proceedings are between two private individuals. They can be held in a Small Claims Court, a County Court or the Supreme Court of Canada, depending on the seriousness of the case.

Small Claims Courts are set up for use by people who are contesting relatively small amounts of money – usually \$1,000 or less. The proceedings are simple, and no lawyer is needed. With County Courts or the Supreme Court, proceedings are more complex and generally require legal counsel.

In a civil proceeding a judgment will be made in favour of one person. The other person can appeal to a higher court to have the decision reversed or modified.

What about criminal proceedings?

These take place when the Attorney-General enforces the criminal law. The prosecutor is the state, and the defendant is the person or people accused of the crime.

Depending on the seriousness of the charge and the preference of the person accused of the crime, the trial may take place before a Provincial Court judge, a County Court judge, or a judge and jury.

The person accused has the absolute right to be represented by legal counsel. She or he is presumed innocent until proven guilty beyond a reasonable doubt.

The Legal Position of Women

What is the legal position of women compared to that of men?

Most often, it is the same. In some instances, however, there are very real differences, some of which benefit women and others which discriminate against women.

Historically, women have been treated differently than men. They have often been regarded as less than equal. In a number of societies they were regarded as inferior beings or even as a form of property.

Under Ontario law, men and women are equal. For example, section 65 of the Family Law Reform Act states that the married woman has a legal personality that is independent, separate and distinct from that of her husband. A married person has a legal capacity for all purposes and in all respects as if she were unmarried.

The new Family Law recognizes marriage as an equal partnership in view of the mutual contribution of the spouses to the welfare of the family, including the previously undervalued contribution of the full-time homemaker. In the case of marital breakdown, the new legislation provides for an equitable division of family assets and equal responsibilities for supporting dependent family members.

A copy of the Family Law Reform Act may be obtained from: Communications Office, Ministry of the Attorney-General, 18th Floor, 18 King Street East, Toronto M5C 1C5.

The effect of these changes in the law is to remove from married women certain legal disabilities which had previously resulted on marriage. Laws are also being passed in other parts of Canada making men and women more equal under the law.

The Ontario Human Rights Code prohibits discrimination in employment and housing on the basis of race, creed, colour, age, sex, marital status, nationality, ancestry or place of origin. Any person who suspects that she or he has been discriminated against on any of these grounds should file a complaint with the Ontario Human Rights Commission. Two relevant brochures are the Human Rights Code itself, available in a number of languages from regional offices of the Human Rights Commission, and *Sex Discrimination in Employment*, available from the Women's Bureau.

In March, 1978 the federal Human Rights Act came into effect providing similar protection from discrimination for workers in industries under federal legislation such as transportation, broadcasting and banking, and employees of the federal government. The federal Human Rights Act also prohibits discrimination in the payment of wages on the basis of sex if the work being performed is considered to be of equal value. For further information, contact the Canadian Human Rights Commission, Ottawa, Ontario or call collect to (613) 995-1151.

Political Rights and Responsibilities

When can I vote?

Women have the same voting rights as men. If you are a Canadian citizen or British subject, have lived in Ontario for the year prior to a provincial or municipal election and are 18 years of age or over, you are eligible to vote. Since June 1975, only Canadian citizens are eligible to vote in federal elections.

Before an election, a voters list is prepared in each riding. If your name appears on it, you only have to go to the designated polling station to vote. If, however, your name is not on the list, and you believe you are eligible, you should contact the returning officer in your riding and ask that your name be added to the voters list.

Can I run for elected office?

If you are entitled to vote you are entitled to be a candidate. Exceptions are certain categories of government employees, holders of government contracts, or anyone who has been found guilty of corrupt practice within a certain number of years before the election.

A member of a provincial legislature may not run in a federal election, unless he or she first resigns the provincial seat. A government employee can run or work actively in support of a candidate for municipal elections only, but cannot solicit funds or actively engage in a campaign sponsored by a provincial or federal political party.

Do women have an equal responsibility to serve on juries?

Yes. All citizens have the responsibility of jury duty. Until recently, any woman called upon to serve on a jury could ask to be exempted from such service simply because of her sex.

This is no longer true. Today, if you are between 18 and 69 years of age, reside in Ontario, and are a Canadian citizen, you are eligible for jury duty. You no longer need to own property. Some people can be excused from jury duty on the basis of their occupation. If you are a public official of a specified type, a lawyer, a politician or a medical practitioner, for instance, you are ineligible to serve on a jury; if your spouse is a lawyer, judge or policeman, neither of you can be a juror.

In a civil proceeding, upon the request of counsel, a judge may order that the jury be either all men or all women. Either side of the case may object to the inclusion of certain persons on the jury, but each is limited to four such challenges. No reasons have to be given, so a lawyer can, in fact, ask to exclude women or men if it might be advantageous to the case.